



Making Northern Ireland Safer For Everyone Through Professional, Progressive Policing

FREEDOM OF INFORMATION REQUEST



Request Number: F-2009-02417

Keyword: Crime

Subject: MONIES PAID TO INFORMANTS UNDER 18 YEARS OF AGE

Request and Answer:

Question

On July 29, 2009, the PSNI confirmed it has paid £299,000 to informants during the past year. How much of this figure was paid to informants under the age of 18?

Answer

Your request for information has now been considered.

In accordance with the Act, this letter represents a Refusal Notice for this particular request. The Police Service of Northern Ireland can neither confirm nor deny that it holds the information you have requested. I can, however, advise you, as required by Section 17 of the Act that such information, if it were to exist, would be reasonably expected to be exempted under:

Absolute Exemption

Section 23 (5) Information supplied by, or relating to bodies dealing with security matters

Section 40 (5) Personal Information

Qualified Exemption

Section 24 (2) National Security

Section 30 (3) Investigations and Proceedings Conducted By Public Authorities

Section 31 (3) Law Enforcement

Section 38 (2) Health and Safety

HARM

The essence of the work undertaken by the PSNI is to protect both individuals and society as a whole.

Crime Operations Department PSNI is entrusted with a considerable amount of secret information. It has an important role in countering the many threats against society.

The flow of information is essential to its work and by confirming or not the requested information could compromise the confidence of individuals who may or may not supply information.

It must also be taken into account the fact that Northern Ireland is a small geographical area with a low population number. By even confirming that the requested information is held or not could increase the likelihood of an individual being identified. This factor must be considered and the effect of confirming or not the existence of information regarding CHIS would have on the local community, the public at large and how PSNI performs its functions under the Police (NI)

Act 2000, which states:

“It shall be the general duty of police officers –

- (a) to protect life and property;
- (b) to preserve order;
- (c) to prevent the commission of offences;
- (d) where an offence has been committed, to take measures to bring the offender to justice.”

The European Convention of Human Rights states in Article 2 that the right to life shall be protected. It states further in Article 8 that each person has the right to respect for private and family life. Section 38 of the Freedom of Information Act 2000 also protects an individual's physical health and mental wellbeing whether the harm is real or perceived. Therefore the PSNI consider that by confirming or not the information you have requested may have the potential to identify different person/s and would not be in keeping with the Act.

Finally, the release of information under FOIA must be considered a release of information to the world as a whole. Therefore, simply confirming or not that such information were held could disclose sensitive information regarding CHIS.

Public Interest Test

The public interest test is as follows: -

Considerations Favouring Disclosure

Accountability

Confirming the requested information could enlighten members of the public as to how many persons under 18 had received payments for information by the Police. This may go some way to promoting awareness and accountability where expenditure of public funds is concerned, and could lead them to challenging whether the expenditure is value for money in the circumstances.

Public Debate

To confirm whether information requested is held or not could contribute to the quality and accuracy of public debate and encourage the community to be more vigilant and proactive in the fight against crime.

Confirmation of this information could assist in any public debate on the PSNI use of Covert Human Intelligence Source (CHIS). Such debate at the moment will be based on a lack of information provision and could be subject to inaccurate rumour and speculation.

Considerations Favouring Non-Disclosure

Efficient and effective conduct of the service.

To confirm or deny whether any information is held or not has the potential to compromise the prevention and detection of crime.

Current investigations

Many investigations rely on the use of information from CHIS. Those charged with managing the processes and the welfare of the individuals concerned make a solemn promise that they will do all they can to protect the well being of the persons involved. The confirmation of this information would suggest to CHIS that this promise to protect them is not a cast iron guarantee as we can be forced to make disclosures under FOI. This would result in the withdrawal of co-operation for current investigations and reluctance to assist in the future. This can be evidenced by the very recent court ruling with regard to protecting the anonymity of witnesses which immediately resulted in the collapse of a £6 m trial and urgent government action to restore the previous rules.

Therefore it is in the public interest to engage the neither confirm nor deny principles to any information that may be of assistance to anyone involved in criminal activity.

Fair treatment of an individual

A CHIS provides the information solely on grounds that it is completely confidential. To even confirm or not the requested information could have an adverse affect on the health and well being of a CHIS. This view is based on the professional knowledge and understanding of those involved in the CHIS handling process. CHIS are briefed with regard to the risks they may face, and are not increased by any deliberated action the police may take.

Flow of Information to the Service

To confirm or not the existence of the requested information could act as a deterrent to the public to provide information to the PSNI. If a relationship between the PSNI and members of the public/CHIS were impeded, the gathering of information to enable the PSNI to perform its public service functions would become more difficult than it already is. The use of CHIS takes place in an environment of absolute trust and confidence. Anything which undermines this ethos would have a detrimental effect, reducing the quality of information the PSNI receives.

Interests of Third Parties

PSNI neither confirm nor deny information when third party interests might be jeopardised if it relates to sensitive commercial information held about business, financial, contractual or operational issues.

Balancing Test

Having considered the arguments highlighted above it is considered that the balance in the public interest test is one of maintaining the exclusion of the duty to confirm or deny as it outweighs the public interest in disclosing whether PSNI holds the information requested.

We would draw your attention to Case FS50078588 – Guardian Newspaper v ICO and Avon and Somerset police (Jeremy Thorpe). It was established in this case that the disclosure of information particularly where Sec 30 is engaged, need only be for a tangible community benefit and the public interest is not defined by matters that the public would simply just find interesting.

We would also suggest that any small community benefit is already catered for in other ways which reduces the need for FOIA to do so. Firstly, there is the Audit Commission Act where all police expenditure is monitored by an independent audit process. This ensures that funds are not used inappropriately and guarantees that fact to the public. In addition to this legal regulation, the Northern Ireland Policing Board also maintains an interest in ensuring the correct expenditure of public money. This negates the need for any further requirements to disclose how public funds are spent.

Secondly, the use of CHIS is an extremely sensitive area of police business and is already substantially monitored and regulated through strict guidelines and procedures outlined within the Regulation of Investigatory Powers Act, whilst also taking into account the provisions of the Human Rights Act when deploying such resources. In addition, the Office of the Surveillance Commissioner (OSC) scrutinises police activity in this area and reports to the Prime Minister on an annual basis. The OSC chooses not to produce the requested information as part of his annual report, indicating the sensitivity he also considers in making such information widely available within the public domain. Such robust processes ensure that any individual employed by the police service aren't exploited or subject to inappropriate action.

Other organisations outside the police service are also widely engaged in rewarding CHIS in a number of ways, and therefore the release of police statistical information is likely to harm the close relationship that exists with such organisations, where trust and confidence in this specific area has been built up in the exchange of information and financial assistance during the Criminal Justice process.

If you have any queries regarding your request or the decision please do not hesitate to contact 028 9070 0164. When contacting the Freedom of Information Team, please quote the reference number listed at the beginning of this email.

If you are dissatisfied in any way with the handling of your request, you have the right to request a review. You should do this as soon as possible or in any case within two months of the date of issue of this letter. In the event that you require a review to be undertaken, you can do so by writing to the Head of Freedom of Information, PSNI Headquarters, 65 Knock Road, Belfast, BT5 6LE or by emailing foi@psni.pnn.police.uk

If following an internal review, carried out by an independent decision maker, you were to remain dissatisfied in any way with the handling of the request you may make a complaint, under Section 50 of the Freedom of Information Act, to the Information Commissioner's Office and ask that they investigate whether the PSNI has complied with the terms of the Freedom of Information Act. You can write to the Information Commissioner at Information Commissioner's Office, Wycliffe House, Water Lane, Wilmslow, Cheshire, SK9 5AF. In most circumstances the Information Commissioner will not investigate a complaint unless an internal review procedure has been carried out, however the Commissioner has the option to investigate the matter at his discretion.

Please be advised that PSNI replies under Freedom of Information may be released into the public domain via our website @ www.psni.police.uk

Personal details in respect of your request have, where applicable, been removed to protect confidentiality.